

P-407, 421/CP-93-401 ORDER PARTIALLY DENYING PETITION AND
REQUIRING THE FILING OF COST STUDIES AND PROPOSED RATES FOR THE
REMAINDER OF THE PETITION

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
Dee Knaak

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Petition for
Extended Area Service from the
Embarrass Exchange to the
Virginia, Babbitt, Tower, and
Aurora Exchanges

ISSUE DATE: October 28, 1993

DOCKET NO. P-407, 421/CP-93-401

ORDER PARTIALLY DENYING PETITION
AND REQUIRING THE FILING OF COST
STUDIES AND PROPOSED RATES FOR
THE REMAINDER OF THE PETITION

PROCEDURAL HISTORY

On April 30, 1993, subscribers in the Embarrass exchange petitioned for extended area service (EAS) to Virginia, Babbitt, Tower and Aurora. GTE serves customers in Embarrass, Aurora, Tower and Babbitt. US WEST Communications, Inc. (US WEST) serves customers in Virginia.¹

On August 8, 1993, the town of Embarrass, the petition sponsor, filed a request that traffic studies be conducted during the school year.

GTE filed traffic studies on August 30 and September 1, 1993. The traffic studies contained data from January through July, 1993, and thus included part of the school year.

On September 27, 1993, the Department of Public Service (the Department) filed its report and recommendation.

The matter came before the Commission for consideration on October 19, 1993.

¹ Although the petition for EAS to Virginia named the towns of Virginia, Mt. Iron and Eveleth separately, official exchange boundary maps include these three towns in the Virginia exchange. The traffic studies included the three towns as one petitioned exchange. For purposes of this docket, the towns of Mt. Iron, Eveleth and Virginia will be considered to be included in the Virginia exchange.

FINDINGS AND CONCLUSIONS

I. The EAS Statute

Minn. Stat. § 237.161 provides that an EAS petition will be granted when the following criteria are met:

1. The petitioning exchange is contiguous to an exchange or local calling area to which extended area service is requested in the petition;
2. Polling by the Commission shows that a majority of the customers responding to a poll in the petitioning exchange favor its installation, unless all parties and the Commission agree that no polling is necessary; and
3. At least 50 percent of the customers in the petitioning exchange make one or more calls per month to the exchange or local calling area to which extended area service is requested, as determined by a traffic study.

II. Adjacency

The Department's service area maps show that the Embarrass exchange shares a boundary with the Tower, Babbitt, Aurora and Virginia exchanges. The Commission therefore finds that the petition fulfills the adjacency requirement of the EAS statute, Minn. Stat. § 237.161.

III. Traffic Volume

Traffic studies indicate that more than 50% of Embarrass subscribers placed one or more calls per month to the Virginia and the Babbitt exchanges. These portions of the petition therefore fulfill the traffic volume criterion of Minn. Stat. § 237.161.

GTE's traffic studies show that between 1% and 33% of Embarrass subscribers placed one or more calls per month to Tower during the period from January through July, 1993. The Commission therefore finds that this portion of the petition fails to fulfill the traffic volume requirement of the EAS statute.

Embarrass subscribers placed enough calls to Aurora to fulfill the statutory criterion in only two of the seven months included in GTE's traffic study. In April, 50.64% of Embarrass subscribers placed one or more calls to Aurora; in June, the rate was 50.32%. In the remaining five months, percentages ranged from 45.43% to 49.89%.

The Department recommended that the Commission find that the Embarrass/Aurora route fulfills the statutory traffic volume requirement. The Department reasoned that the traffic volume was "about 50%," no harm would be done if the petition went forward, subscribers would have a chance to show their preference during the balloting process, and GTE was willing to prepare cost studies and proposed rates for this route.

The Commission finds that the Embarrass/Aurora portion of the EAS petition does not fulfill the traffic volume criterion of Minn. Stat. § 237.161. The Commission notes that the statutory criterion is reached in only two of the seven months studied. Even if the seven months of data were averaged, the result would be less than 50%. The statutory criterion could only be reached by ignoring some of the data provided and using only the qualifying results from the traffic study. The Commission is unwilling to skew the study results by selective use of the data provided; such a practice would be contrary to the intent of the EAS statute.

Minn. Rules, part 7815.1500 allows an unsuccessful petitioner to resubmit the petition after a period of two years. It is possible that the traffic volume from Embarrass to Aurora may rise to the required volume in that time.

IV. Cost Studies and Proposed Rates

The Commission will require GTE and US WEST to submit cost studies and proposed rates, so that the Embarrass/Virginia and Embarrass/Babbitt portions of the petition may move to the polling of subscribers. The telephone company filings should include alternative cost allocations of 75%/25%, 60%/40% and 50%/50%, and should follow the same methodology and parameters as other previous non-metropolitan EAS filings.

ORDER

1. The Embarrass/Tower and Embarrass/Aurora portions of the petition are denied.
2. Within 60 days of the date of this Order, GTE and US WEST shall file cost studies and proposed rates for the Embarrass/Babbitt and Embarrass/Virginia routes. The rates shall include alternative cost allocations of 75%/25%, 60%/40%, and 50%/50%.

3. Within 45 days of the filing of cost studies and proposed rates, the Department shall file its report and recommendations. If the Department recommends changes in the cost studies, the Department shall recalculate rates to reflect its proposed changes.
4. Parties who wish to file comments regarding the Department's report shall do so within 20 days of its filing.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Susan Mackenzie
Acting Executive Secretary

(S E A L)